IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Crl.MC.No. 3326 of 2007()

CRIME NO.607/07 OF PANDALAM POLICE STATION

PETITIONER:

P.A.SHUKOOR, AGED 59 YEARS,
S/O.PAREETHUKUNJU, POWER HOUSE ROAD,
THOLICODU, PUNALUR VILLAGE, PATHANAPURAM TALUK,
KOLLAM DISTRICT.

BY ADV. SRI.R.SURAJ KUMAR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE CIRCLE INSPECTOR OF POLICE,
PANDALAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3326 of 2007

Dated this the 12th day of November, 2007

O R D E R

This petition is filed under Section 482 Cr.P.C. The petitioner is arrayed as the 2nd accused in a crime registered under Section 489 B (c) I.P.C. Altogether there are 2 accused persons. The petitioner is the 2nd accused. The 1st accused was arrested on 11.10.07. He allegedly had 84 counterfeit currency notes of Rs.500/- denomination in his possession. He was interrogated. His interrogation allegedly revealed the complicity of the petitioner. The petitioner was hence shown as the 2nd accused in the crime. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The petitioner has come to this Court with two alternative prayers. The first prayer is virtually a prayer for grant of anticipatory bail. Alternatively it is contended that there may be a direction that if the petitioner surrenders and applies for bail, the learned Magistrate may be directed to consider the application for bail on the date of surrender itself.

3. Notice was given to the learned Public Prosecutor. The learned Public Prosecutor submits that the investigation reveals the complicity of the petitioner. The contention of the petitioner that

accused No.1 has some animosity against him and therefore he has given the name of the petitioner to implicate him falsely is not correct at all. Investigation reveals that the petitioner has been in touch with the 1st accused from time to time. On days immediately preceding his arrest, the petitioner had repeatedly contacted the 1st accused. It is not as though the investigator has only the confession statement of the 1st accused to suspect the nexus between the 1st and 2nd accused, but the independent investigation has also revealed that there is some nexus between the petitioner and the 1st accused. In these circumstances, there is absolutely no justification in the prayer for grant of anticipatory bail. No directions need be issued to the learned Magistrate also. The petitioner may be directed to appear before the Investigating Officer or the learned Magistrate and then seek regular bail in the normal and ordinary course, submits the learned Public Prosecutor .

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I agree with the learned Public Prosecutor that there are no circumstances in this case, which would justify or warrant the invocation of the extraordinary inherent/equitable jurisdiction under Section 482/438 Cr.P.C. I find no features in this case which would justify such

invocation. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This Crl.M.C is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-